

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

AARON MICHAEL SHAMO, et al.,

Defendants.

2:16-CR-631 DK

BEFORE THE HONORABLE DALE KIMBALL

DATE: AUGUST 20, 2019

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

(Pages 1141 through 1225)

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1 AUGUST 20, 2019

SALT LAKE CITY, UTAH

2 P R O C E E D I N G S

3 * * *

4 THE COURT: Good morning. Are we ready to proceed?

5 MR. GADD. Yes, Your Honor.

6 MR. SKORDAS: Yes, Your Honor.

7 THE COURT: Mr. Slagle can resume the stand.

8 THE CLERK: All rise, please.

9 (Whereupon the jury enters the courtroom.)

10 Court is now in session. You may be seated.

11 THE COURT: Good morning, Ladies and Gentlemen of
12 the Jury. Thank you for your work and thank you for being
13 prompt.

14 Mr. Skordas, you may cross examine Mr. Slagle.

15 MR. SKORDAS: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. SKORDAS

18 Q. Good morning, Mr. Slagle.

19 A. Good morning, sir.

20 Q. It appears from your resume that you have
21 substantial experience and training in computer forensics
22 and retrieving information off of computers and that type of
23 thing. Is that fair?

24 A. I have training in it, I guess.

25 Q. Don't be shy.

1 A. I have specialized training within mobile and PC's.

2 Q. And is that mostly what you do?

3 A. No. It's not all what I do. I carry a case load,
4 so I investigate and work my own cases, but yeah, at least
5 50 percent of the time, I do computer forensics.

6 Q. And in connection with your training in computer
7 forensics, have you had training in recovering lost data
8 from computers or things that have attempted to have been
9 deleted from computers?

10 A. That is part of the computer forensic training is
11 the lost data, which you may call carving.

12 Q. Carving?

13 A. It's a way that we recover lost data.

14 Q. Very well. And you've also apparently had some
15 training in -- or maybe it was self taught, but in
16 recovering or getting information about the Dark Web,
17 especially cryptocurrency. Is that fair?

18 A. Yeah. That was a new experience for me in this
19 case.

20 Q. And I'm reading your reports, and it looks like
21 some of it was arguably trial and error for you?

22 A. That's fair to say.

23 Q. But you generally did a fairly good job of
24 recovering and collecting a lot of the Bitcoins that you
25 talked about yesterday?

1 A. I feel like we did a pretty good job.

2 Q. I think everyone would agree with that, sir. And
3 you started, I think, your testimony yesterday talking about
4 this Exhibit 13.04, which is the iMac. Do you see that?

5 A. Yes.

6 Q. And 13.05, which was the iPhone 6s?

7 A. Yes.

8 Q. And 13.06, which was the iPhone 7, correct?

9 A. Correct.

10 Q. And basically your testimony yesterday, as I
11 understand it, was in large part based on information you
12 had been able to recover from those three devices?

13 A. That is correct.

14 Q. If you would turn to your left there, there is a
15 picture of a bunch of folks there. Especially on the
16 middle, second row, there's a picture of some fellow named
17 Crandall. Do you see that?

18 A. Yes, I do.

19 Q. Would you tell the jury what information you were
20 able to download and obtain from Mr. Crandall's computer.

21 A. We were able to conduct an image of Mr. Crandall's
22 computer, and we went -- and that image was provided to the
23 case agent for review.

24 Q. Okay. But not you?

25 A. No. I processed the case. I didn't examine it.

1 So, in this case, where we had a lot of electronic --
2 electronic evidence, what we had to do was what you do in
3 the medical field in triage, the most, like, ones that are
4 just glaring, obvious, you triage those, get those off to
5 the case agent. Or there were other agents assisting, so I
6 would process and provide them in a format that was easy for
7 the agents to go through, and so they would do the
8 examination part of it.

9 Q. And specifically, as it relates to Mr. Crandall, do
10 you know when his computer and other equipment would have
11 been seized and examined?

12 A. I don't have the exact date in front of me.

13 Q. It would have been at least several months after
14 the Shamo items were seized, correct?

15 A. That is correct.

16 Q. And there is another picture there of a fellow
17 named Paz. Would you tell the jury what you were able to
18 locate off of his computer?

19 A. Again, with Paz, I was brought a computer image,
20 meaning this is a bit-to-bit copy of the drive that was in
21 Mr. Paz's computer. I was -- the case agent requested that
22 I process it and put it in a viewable format so that he
23 could examine the contents, and I did that. I did that.

24 Q. And, again, his computer or cell phone or whatever
25 else was seized would have been some months or perhaps even

1 years after Mr. Shamo was taken into custody, correct?

2 A. That would be correct.

3 Q. Going down there, how about Mr. Noble? What were
4 you able to get off of his computer?

5 A. Mr. Noble's, again, same thing. I processed it and
6 provided an image for deeper analysis and examination to
7 agents in the case.

8 Q. Same with -- would you say the same would be true
9 for Mr. Gygi?

10 A. I don't believe I actually looked at Gygi's one.
11 That may have been -- that may have been one that we imaged
12 and gave off to the case agent.

13 Q. It may have been one that you didn't image at all,
14 correct?

15 A. I don't -- I don't recall. I'd have to see the
16 evidence number.

17 Q. Do you recall ever seeing a report as it relates to
18 his computer?

19 A. No, I don't.

20 Q. Mr. Noble's?

21 A. I gave the case agent the information, and if he
22 found something that was of relevance, he would bring it
23 back to me for further review.

24 Q. Okay. But my question was, have you ever seen a
25 report generated as it relates to an inspection of

1 Mr. Noble's computer?

2 A. No.

3 Q. Mr. Paz's computer?

4 A. No, I have not.

5 Q. Mr. Crandall's computer?

6 A. No, I have not.

7 Q. How about Ms. Tonge's computer?

8 A. No, I have not.

9 Q. Do you know if that was even seized or looked at?

10 A. I do.

11 Q. And how about Ms. Bustin's computer? Have you ever
12 seen a report or any information as it relates to that?

13 A. I have not.

14 Q. And I'll just ask you one more, Ms. Noriega's
15 computer?

16 A. No, I have not.

17 Q. You saw, however, and in your testimony yesterday
18 some reference to Ms. Noriega, correct, at least one email
19 address with her name on it?

20 A. I did.

21 Q. And you saw yesterday at least one Bitcoin account
22 that had the name Tonge associated with it, correct?

23 A. I did.

24 Q. But you, personally, didn't examine any of those --
25 at least those two females' computers or cell phones or

1 anything like that?

2 A. I did not do any of the analysis.

3 Q. And without being repetitive -- I guess I'll be
4 repetitive. You're not even aware of anyone who examined
5 the computers or cell phones of those two, females.

6 A. I actually do know that a case agent was able to go
7 through those -- those -- those images and review them.

8 Q. Those two, Noriega and Bustin?

9 A. Bustin and Tonge.

10 Q. Okay.

11 A. And Noriega's image of his computer, once
12 processed, and it was put in a readable format. I know that
13 agents on the case reviewed that evidence.

14 Q. You also testified to the substantial efforts you
15 took to -- and I'll try to make it a little simpler, mostly
16 for me, but to get the Bitcoins out of one wallet and into
17 the government's wallet, correct?

18 A. Correct.

19 Q. And the reason you do that is so that you can -- so
20 that the government can hold those and so that no one will
21 be able to discard them or get rid of them or anything like
22 that?

23 A. That's true.

24 Q. And you did that, it looks like from your report,
25 in 2017, correct?

1 A. Yes.

2 Q. In fact, it looks like your reports are mostly
3 dated September 7 of 2017, correct?

4 A. Correct.

5 Q. That was about ten months after Aaron had been
6 arrested?

7 A. Correct.

8 Q. And in those ten months, you were unable to find
9 any evidence that anyone had gone into those accounts and
10 deleted anything or gotten rid of anything or hid anything
11 from Mr. Shamo's computers, correct?

12 A. As far as that investigative process, that's a
13 little bit beyond the scope of my involvement in the Bitcoin
14 investigation.

15 Q. But it didn't appear that anyone had attempted, in
16 any way, to sell off Bitcoins in the ten months prior to the
17 time that you were able to seize them and put them in the
18 government's wallet, correct?

19 A. Again, that would be beyond the scope of my
20 involvement. There were agents that specifically looked at
21 the blockchain analysis, and that was beyond the scope of my
22 involvement. My involvement was to locate the Bitcoin and
23 attempt to seize those items.

24 Q. Okay. But I'm -- I'll ask it a third time, and
25 I'll be more careful. You, personally, were never made

1 aware of anyone altering that Bitcoin wallet?

2 A. I don't believe I was.

3 Q. And when the government seizes property; you seize
4 this, for example, you take it and you put it in the
5 evidence room. But when you seize a Bitcoin wallet, it's a
6 little different, isn't it?

7 A. It's completely different.

8 Q. And you explained that pretty well yesterday. And
9 the government takes those items and puts them in their -- I
10 guess you created your own Bitcoin wallet. Is that fair?

11 A. We did.

12 Q. And you -- do you know what happened with those
13 Bitcoins?

14 A. I do.

15 Q. Tell the jury what happened to those Bitcoins.

16 A. The government liquidated that, the Bitcoin,
17 pursuant to an agreement with the defendant.

18 Q. The government was able to sell off the Bitcoins,
19 correct?

20 A. Yes. The government did.

21 Q. And at the time the government sold off the
22 Bitcoins, you're aware that the value of Bitcoin was
23 substantially greater than it was November 22, 2016, when
24 Aaron Shamo was taken into custody?

25 A. I believe the date that we actually liquidated the

1 Bitcoin was many months after the seizure, and the market
2 had shot up from the date that we seized them,
3 significantly, almost tripled.

4 Q. Have you been involved in situations, as a federal
5 agent, when assets have been forfeited in the past?

6 A. I have.

7 Q. And you're aware, aren't you, that there's some
8 give and take in that, in terms of the accused's rights, as
9 they have due process rights to their property as well,
10 correct?

11 A. I am, by no means, a forfeiture attorney, so you
12 may be going out of what I may have actual legal experience
13 with.

14 Q. I understand, and I won't ask you a legal opinion,
15 but you seem quite knowledgeable. It's unusual, isn't it,
16 that an accused will forfeit his property before he's even
17 spent a single day in trial?

18 A. I could not speak to that, as far as it being
19 unusual. It's -- again, it's beyond the scope of my
20 involvement in this case.

21 Q. But the government isn't allowed to forfeit
22 property until and after an individual is convicted of a
23 crime unless --

24 MR. BURGGRAAF: Objection, Your Honor. I believe
25 this calls for a legal opinion.

1 THE COURT: Well, I guess you can ask him about his
2 understanding, but if you're calling for a legal conclusion,
3 the objection is sustained.

4 So, what do you want from him?

5 MR. SKORDAS: His experience, just a factual
6 conclusion.

7 THE COURT: You go ahead.

8 THE WITNESS: Can you repeat the question, please.

9 Q. BY MR. SKORDAS: If I can remember it. In your
10 experience in forfeiture items -- in forfeiture cases, the
11 government doesn't typically -- isn't typically allowed to
12 forfeit another person's property until they are convicted
13 of something, correct?

14 A. Again, that is going to be beyond the scope, and
15 within my agency we deal with criminal forfeitures and civil
16 forfeitures, and the rules vary on both of those, so it
17 would be very difficult to go into the details of that.

18 Q. But you're aware that, at the time you sold off
19 these Bitcoins or the government sold off and liquidated the
20 Bitcoins, that was done with the blessing of Aaron Shamo?

21 A. That was my understanding.

22 MR. SKORDAS: That's all I have, Your Honor.

23 THE COURT: Thank you, Mr. Skordas.

24 Mr. Burggraaf, any redirect?

25 REDIRECT EXAMINATION

1 MR. BURGGRAAF:

2 Q. Agent Slagle, defense counsel asked you about what
3 you are aware of and not aware of. Are you aware of the
4 liquidated Bitcoins actually being forfeited at this stage,
5 or is that beyond the scope of your involvement?

6 A. That would be generally beyond -- that is beyond
7 the scope of my involvement. My involvement was to seize
8 them and provide them to the case agent, and that was my
9 involvement.

10 Q. Are you aware that Mr. Shamo agreed to allow the
11 Bitcoin to be sold off?

12 A. That is what I've heard; however, that's what I've
13 read in the newspaper.

14 Q. Okay. So you're not actually aware of whether
15 that's actually been forfeited prior to this trial or not?

16 A. I am actually aware of that because of discussions
17 with the case agent.

18 Q. You were asked about the value of the Bitcoin as
19 compared to when Mr. Shamo was arrested to when you finally
20 seized the Bitcoin itself.

21 A. Yes.

22 Q. You mentioned that the value, I assume in U.S.
23 dollars, went up almost triple. In between the time when
24 Mr. Shamo was arrested and when the Bitcoin -- the Bitcoins
25 were actually seized, was that at the highest point?

1 A. No.

2 Q. So, the Bitcoin value had actually been higher at
3 some point?

4 A. Yes. I believe it went to almost 20,000 at one
5 point.

6 Q. So if Bitcoin has increased to a certain value --
7 well, in your familiarity with cryptocurrency, does it just
8 continue to rise, or does it more ebb and flow as far as
9 value?

10 A. That might actually be beyond the scope of my
11 involvement. I just know that it's a volatile currency.

12 Q. Okay. And is it fair to say that, because you're
13 not the case agent, you follow more or less what the scope
14 of your assignment is as defined by the case agent?

15 A. Exactly. The case agent determines what he needs
16 me to do in the case.

17 Q. So your examination of Mr. Shamo's devices would
18 have been, at least preliminarily -- or rather the triage
19 would have been at the case agent's direction?

20 A. Yes. The case agent triaged the case, determined
21 the priority, and that's what I was assigned to.

22 Q. And, as far as the other computers mentioned, did
23 you not examine them and pass on the digital content because
24 that was the direction provided to you by the case agent?

25 A. That would have been the direction.

1 MR. BURGGRAAF: No further questions.

2 THE COURT: Thank you. Any recross, Mr. Skordas?

3 RECROSS EXAMINATION

4 BY MR. SKORDAS:

5 Q. Are you aware today of any of the fluctuations in
6 the Bitcoin market at the time that these were sold?

7 A. Can you clarify that?

8 Q. Yeah. At the time that the Bitcoins that you spoke
9 of yesterday were liquidated, are you aware of what was
10 happening with the Bitcoin market at that time?

11 A. I am.

12 Q. And it was rising and falling, correct?

13 A. At the time of seizure, it was rising. The falling
14 didn't happen until probably the next year.

15 Q. Right. And the government was interested in buying
16 low and selling high, correct?

17 MR. BURGGRAAF: Objection, Your Honor. It calls
18 for speculation on the government's part.

19 THE COURT: Sustained.

20 MR. SKORDAS: That's all I have, Your Honor.

21 THE COURT: Thank you, Mr. Skordas.

22 Are we done with this witness?

23 MR. BURGGRAAF: Yes, Your Honor.

08:53:08 24 THE COURT: You may step down. Thank you. And you
25 may be excused.

1 The government may call it's next witness.

2 MR. GADD: Your Honor, the United States calls
3 Special Agent Virginia Keys.

4 VIRGINIA KEYS,
5 the witness hereinbefore named, being first duly cautioned
6 and sworn or affirmed to tell the truth, the whole truth,
7 and nothing but the truth, was examined and testified as
8 follows:

08:53:40 9 THE CLERK: Please state your name and spell it for
10 the record.

11 THE WITNESS: My name is Virginia Keys.
12 V-i-r-g-i-n-i-a. K-e-y-s.

13 THE COURT: You may proceed, Mr. Gadd

08:53:58 14 MR. GADD: Thank you, sir.

15 DIRECT EXAMINATION

16 BY MR. GADD:

17 Q. Special Agent Keys, are you prepared to testify
18 about your part in the investigation of the drug
19 distribution activities of this defendant and his
20 co-conspirators?

21 A. I am.

22 Q. Before we do that, I just want to give the jury a
23 very brief summary about your background and your
24 experience. Could you tell us a little about yourself.

25 A. Sure. I'm a single mom, and I've lived in Utah for

1 a little over five years, and I enjoy gardening and I like
2 to play volleyball.

08:54:28

3 Q. Thanks. Could you tell us about maybe your
4 education and your background?

5 A. Sure. After I got divorced in 2004, I went back to
6 school, and I finished my bachelor's degree in
7 inter-disciplinary studies. My disciplines are accounting
8 and business and communications with an emphasis in
9 international law enforcement surveillance and cryptography.

08:54:59

10 I continued on my with my master's degree, and I --
11 my master's is in criminal justice with an emphasis in cyber
12 crime. And during my master's program, I was recruited by
13 the government to become a special agent for IRS Criminal
14 Investigations. After I graduated, IRS CI sent me to
15 training with my children in Georgia, and I put them in
16 school while I was doing my training. We were there for six
17 months.

08:55:29

18 During the -- that was at the Federal Law
19 Enforcement Training Center, or the FLETC is what it's
20 called for short. During the time I was there, I learned
21 about the law. I learned about arrest warrants, search
22 warrants, report writing, interviewing, defensive tactics,
23 all the things that we were going to need to do our job as
24 special agents.

25 And then, after I finished that training, I came

1 back to Washington State, and I worked for IRS Criminal
2 Investigation as a special agent for a little over seven
3 years before they transferred me to Utah. I was here a
4 little over two years with them before I transferred over to
5 FDA Office of Criminal Investigations. For short, I'll just
6 say OCI because it's easier. And I have been with them for
08:55:58 7 a little over three years.

8 During the training that I had with IRS, before I
9 transferred over, my investigations included gun smuggling,
10 prostitution, Ponzi schemes, money laundering schemes, drug
11 smuggling, those types of crimes. And then, with FDA, my
12 investigations include investigating misbranding,
13 adulteration, tampering, counterfeit drugs that contaminate
14 the drug supply. And then, part of my responsibilities as
08:56:28 15 well, is to investigate overdoses and overdose deaths
16 associated with those cases.

17 Q. You said FLETC and it just reminded me, the law
18 enforcement -- the federal law enforcement loves its
19 acronyms. Is that fair to say?

20 A. It does.

21 Q. If I fall into that habit of using acronyms, will
22 you correct me?

23 A. Sure.

24 Q. Okay. So when people find out you're a law
25 enforcement agent in the Food and Drug Administration, do

08:56:58 1 you get quizzical looks?

2 A. I do. I actually get razzed pretty good. A lot of
3 people ask me if I'm just there to keep their food safe.
4 But there's a little bit more to it than that.

5 Q. For sure. For sure. Let's talk for a minute about
6 this exhibit right here. This is true Oxycodone, isn't it?

7 A. It is.

8 Q. Did you obtain -- oh, and maybe for the record,
9 this is Exhibit 24.00. Did you obtain true Oxycodone pills
10 from Actavis?

11 A. I did.

08:57:28 12 Q. Did you also obtain true Oxycodone pills from
13 Mallinckrodt?

14 A. I did. The Mallinckrodt pills are stamped or
15 embossed with an M box and then the Actavis are stamped with
16 an A-215.

17 Q. I'm holding Exhibit 24. These are those pills you
18 obtained, right?

19 A. That is correct.

20 MR. GADD: Your Honor, at this time I would like to
21 take a moment and pass these around the jury.

08:57:55 22 THE COURT: All right.

23 (Jurors looking at Exhibit 24.)

24 THE WITNESS: You can touch them if you want, if
25 it's easier to see the embossment. I'll just make sure and

1 count them when I get that back.

2 THE COURT: Don't take any out.

08:58:47 3 Q. By MR. GADD: I said two names there, Actavis and
4 Mallinckrodt. Those are the pharmaceutical companies that
5 sell these pills?

6 A. They are. They are registered with the FDA and
7 approved to manufacture the actual Oxycodone pills for
8 distribution in the United States.

9 Q. And for these real Oxycodone pills, the active
09:00:27 10 pharmaceutical ingredient is Oxycodone, correct?

11 A. Oxycodone, yes.

12 Q. Let's take a minute and just do a little bit of
13 housekeeping. So the FDA, the Food and Drug Administration,
14 it has a chemistry lab, correct?

15 A. It does. It's called the Forensic Chemistry
16 Center.

17 Q. Did you arrange for some of the pills from
18 Mr. Shamo and some of the punches and dies from Mr. Shamo,
19 did you arrange for those to be sent from the DEA lab to
09:00:59 20 your -- the FDA lab?

21 A. I did.

22 Q. I just want to read those through so that they are
23 clear in the record, and what I'll do is I'll read not our
24 court exhibit number, but I'll read the DEA drug exhibit
25 number, and then at the end, I want to ask you if I got them

1 right.

2 So in this category of items that you arranged for
3 the FDA lab to test, I show that we have DEA Exhibit Number
09:01:26 4 14, 34, 64, 123, 193, 85, 95.01, 95.02, 96, 136, 174.01,
5 174.02, 188, 54, 15, 97, 126, 173, 185, 177, 178 and 179.
6 Does that sound correct?

7 A. It does.

09:01:59 8 Q. And we heard some about this yesterday, right?

9 A. We did.

10 Q. The chemists were talking about how some of the
11 items that they had tested or sampled had bits removed so
12 that they could go into special programs, correct?

13 A. Correct.

14 Q. All right. Let's jump back into it. Could we look
15 at 17.06. Can you see that on your screen?

16 A. I do.

17 Q. Could you point out for the jury Alex Tebbs?

09:02:29 18 A. Sure. So if you look at the bottom row, the third
19 row, the farthest to the right, Ms. Tebbs has the red hair,
20 and she's the very last one in that row.

21 Q. What role did Ms. Tebbs play in Mr. Shamo's
22 organization?

23 A. She was the pseudo-executive assistant for him.
24 She would also run errands. She would clean his house,
25 different tasks that he would ask her to do. And that also

09:02:58 1 includes helping him try to get into other businesses.

2 Q. Have you reviewed the text messages that were
3 captured between Ms. Tebbs and Mr. Shamo?

4 A. I have.

5 Q. Could we look at 14.04. Could you read that to the
6 jury.

7 A. Sure. The "local user" is Mr. Shamo, and the gray
8 box is Ms. Tebbs or Alex.

09:03:28 9 Mr. Shamo: Hey, Alex, any news on the T-shirt bis?

10 Alex: He hasn't said anything yet. Do you want me
11 to offer him a price?

12 Mr. Shamo: Yeah. Offer 5K and see what he says.
13 I want to get the ball rolling on it. BTC is doing really
14 well, so the sooner I get a bis up, the better.

15 As you've heard, BTC is short for BitCoin.

16 Alex: Okay. Perfect. I'll text him now.

17 Alex: Also, if it's cool with you, I can get your watches

09:03:58 18 fixed today and drop off the dry clean and come down
19 tomorrow. I asked him what he thinks, so we'll see what he
20 says.

21 Mr. Shamo: Yeah. No pressure on when you come
22 down.

23 Alex: Okay. Perfect. I just figured I would have
24 more stuff done by tomorrow. It would be a little more
25 productive, lol. When I go on lunch in about half an hour,

1 I'll call the food bank and get some time set up.

2 MR. SHAMO: Oh, yeah. Need that done for sure,
3 lol. I have some paperwork I might need filled out for this
09:04:26 4 class I need. I might send you in to do it. Also, I need
5 to get a dentist appointment. Can you maybe find one close
6 by to me and get one set up?

7 Q. Let's talk for just a minute about the offer for
8 the T-shirt business. Are you aware of other instances
9 where Mr. Shamo tried to buy a legitimate business through
10 which he could launder drug money?

11 A. Yes.

12 Q. Let's look at 14.06. Can you read this one as
13 well?

09:04:55 14 A. Yes. Again, Mr. Shamo is in blue, and Alex is in
15 the gray.

16 Mr. Shamo: Both. I had someone drive me to the
17 airport and asked them to leave the truck keys on the
18 counter. That obviously didn't happen. If you can do the
19 dishes in the sink and get a shoe rack that I pointed out,
20 that would be great. I forgot to transfer BTC -- or BitCoin
21 -- over to my online wallet, so I can't set up the trade
22 today. I can't remember what else, but I'll have to get you
23 more cash to get Legal Zoom going. What time was the detail
09:05:27 24 appointment at? Hey, I need you to run some paperwork into
25 Prime For Life for me. They are open 'til 9 p.m. most

1 nights, so anytime in the next few days would be great if
2 you can. Also, I'm moving forward with the gym this week
3 and meeting with the owner in the next few days for lunch,
4 so I'll really need some legal paperwork set up soon for
5 that. Most likely we'll use Legal Zoom since it's easy.
6 Also, can you get the shoe rack that I picked out and
7 reschedule the appointment for the detailing? I was pissed.
09:05:59 8 Allie took the keys to the truck, so sorry about that, but
9 let me know your thoughts and coordination for this.

10 Allie: No big deal at all, lol. I already left
11 after I tried to call. It was my cousin's birthday party,
12 so I went to that, ha, ha. But, yes, I'll get on that.
13 What shoe rack was it you wanted? Would you like me to get
14 hold of Legal Zoom? I rescheduled for this Saturday, so no
15 biggy, and I'll get started on the paperwork. You just want
16 a contract between you two saying you will be part owner.
09:06:28 17 Any other details I need to know?

18 Mr. Shamo: Yeah. It will be a startup for the gym
19 since it's not legal yet, but I'll get more details, how he
20 wants us to set it up in the next few days. Also figure out
21 a name for the one shirt bis. I want to get that started
22 soon. Ugh. It's going to be a super busy week for me. Let
23 me know what day you can come down to do the paperwork for
24 Prime For Life. Carpet cleaners this week. Please try and
25 set up for Thursday or Friday.

1 Q. The date on these messages that you've just read,
09:06:59 2 it's June of 2016, correct?

3 A. Correct.

4 Q. Let's look at just one or two more. Could we look
5 at 14.05. Ms. Tebbs' role wasn't just running errands or
6 trying to set up businesses that he could purchase or
7 launder his money through?

8 MR. SKORDAS: Objection to counsel's
9 characterization of laundering money.

10 THE COURT: Objection -- what's the question --
11 sustained.

12 Q. BY MR. GADD: I probably should throw a question in
09:07:26 13 there. I will. In what we are about to read here in 14.05,
14 did you see additional steps that the defendant asked
15 Ms. Tebbs to take in her work for him?

16 A. I did. He wanted her to also make BitCoin trades
17 for him.

18 Q. Let's read that, would you?

19 A. Mr. Shamo is in the blue. Alex is in the gray
20 again.

21 Mr. Shamo: Hey, my biggest BTC trader is in town
22 tomorrow. Think you can make the trade for me?

23 Alex: Yes. I can definitely do that. I'm free
24 tomorrow, so any time morning sometime would be best.

09:07:59 25 Mr. Shamo: Awesome. I'll set it up.

1 Alex: Sorry. I'm at work. I can call you around
2 5 or 6 if that's okay. Are you going to do Vegas?

3 Mr. Shamo: Okay. I'm going. Can I send you my
4 card info and you buy the 9:50 flight?

5 Alex: Yes. For tonight?

6 Mr. Shamo. Yes.

7 Alex: Okay. Southwest, right?

8 Q. And then let's look at one other. Let's look at
09:08:29 9 14.07. This will be our last one for Ms. Tebbs. In
10 addition to engaging her to trade BitCoin, did she also buy
11 stamps at his request?

12 A. She did.

13 Q. Let's look at this now, and could you read this for
14 us?

15 A. Yes. Again, Mr. Shamo is in blue. Alex is in
16 gray.

17 Mr. Shamo: I need those stamps ASAP. Can I get
18 your bank account info so I can drop cash in?

19 Alex: Yes. Give me a sec. My account number is
09:08:59 20 2910962 and I am at Golden West. It's Alex Tebbs on the
21 account.

22 Mr. Shamo: I've been down south most of my day and
23 haven't had a chance to get it. I might just give you cash
24 when you come down next. Meh. Also, don't hate me, but I
25 have another watch to do, lol. I'll talk to you.

1 Alex: I can get order it -- I'm sorry -- I can
2 just order it, and you can just pay me back. What exactly
3 is it? I'm fine. I'm used to it now.

09:09:30

4 Mr. Shamo: Lol. Priority stamped the 6.451, I
5 think. I need 1,000 of them, so it will be around 7 K, if
6 you can front that.

7 Q. When you see in there the 6.451, what does that
8 mean, if anything, to you?

9 A. That's a priority stamp that actually includes the
10 tracking amount and stuff in the price.

11 Q. And is that the price, \$6.45?

09:10:00

12 A. It is.

13 Q. Let's turn away from Ms. Tebbs now, and let's talk
14 about eBay items. So, did you help analyze Mr. Shamo's
15 computers and data that was received either from subpoenas
16 or search warrants?

17 A. I did.

18 Q. All right. Could we look at Exhibit 17.09. Do you
19 recognize this?

20 A. I do.

21 Q. Did you compile a list of some relevant items that
22 were, to use their phrase, won or purchased on eBay?

23 A. I did.

09:10:28

24 Q. Let's look at these items that you flagged. Can
25 you walk us through what each of the columns means?

09:10:59 1 A. Sure. When you look on the left, that's the
2 purchase date and time of the auction. One of the things
3 about eBay is when you -- you have two choices. You can
4 either actually be involved in an auction and make bids and
5 compete against other people to try to win the bid, or you
6 can just have a buy now feature, and even if you do the buy
7 now feature, eBay still lists it as you winning the auction.

8 So the second column is the auction title,
9 basically the product that was being either won or purchased
10 immediately, then the buyer's shipping address, the shipping
11 city of the buyer and the buyer shipping name.

12 Q. Can you tell us these -- each row is something that
13 he purchased, correct?

14 A. Correct.

15 Q. Can you walk us through the rows and what they are?

09:11:28 16 A. Sure. So let's start at the bottom just for
17 chronological purposes. So on June 6 of 2015, at 16:49, he
18 won or purchased the USPS new 1999 USS Arizona Memorial
19 priority mail express stamp sheet of ten. It was shipped to
20 1383 East Murphy's Lane in Salt Lake City, and the buyer's
21 shipping name is Aaron Shamo.

22 The next line up, July 8 of 2015, at 16:52, he
23 purchased USPS new 1999 USS Arizona memorial priority mail
09:12:00 24 express stamp, sheet of ten.

25 THE COURT: A little bit slower so she can take it

1 down.

2 THE WITNESS: Sorry. He had it shipped to 1383 East
3 Murphy's Lane in Salt Lake City, and the buyer shipping name
4 is Aaron Shamo.

5 Q. BY MR. GADD: So let me jump in for just a moment.

6 As we work our way up, there's going to be several types of
7 dies and stamps, but could you talk specifically about the
8 first and third row and then if you want to do it

09:12:26 9 chronologically, maybe we do the third row first?

10 A. Sure. So, if you go up, it's the third row from
11 the top. In December -- on December 26, 2015, at 16:06, he
12 won or purchased the molds of A-215 for tablet press pill
13 press die pill maker TDP 0/1.5/5/6. He had it shipped to
09:12:57 14 7939 South Titian Street in Cottonwood Heights. Buyer
15 shipping name is Aaron Shamo. And the top line. On March
16 12 of 2016, at 21:45, he won the shipping from USA, A-215
17 die for tablet press pill press TDP 0/1.5/5/6. He had it
18 shipped to 7939 South Titian Street, Cottonwood Heights.

09:13:28 19 Buyer shipping name is Aaron Shamo.

20 Q. In addition to this chart you've created, I want to
21 look at a couple other exhibits. Can we now turn to
22 Mr. Shamo's emails. This would be Exhibit 21.34. And then
23 if we could go to page 4. Do you recognize this?

24 A. I do.

25 Q. What are we looking at here?

09:13:56 1 A. This is the PayPal receipt for Mr. Shamo's purchase
2 of one of the A-215 pill dies. He spent, all total, \$124
3 for it.

4 Q. Then, if we could advance ahead to page 76.

5 A. This is -- whoops.

6 Q. Sorry. Were you going to say something on the
7 previous one or this one?

8 A. This one.

9 Q. Okay. Please, tell us what it is.

10 A. This is another receipt for that second pill die
09:14:28 11 for the A-215 pill die for his pill press. He spent a total
12 of \$124 for this one as well, through PayPal.

13 Q. Let's look at one last set of emails. Could we
14 look at Exhibit 21.08. And if we could go down to page 20.
15 Do you recognize this?

16 A. I do.

09:14:59 17 Q. What is this we're looking at?

18 A. This is eBay, another basic receipt from eBay
19 showing the pill die that he ordered, the A-215. The
20 estimated delivery date was going to be Thursday,
21 March 24th, to Thursday, April 7, and it shows his \$124
22 payment through PayPal for it.

23 Q. As long as we've got the picture up, let me and you
24 a question about the face of the punch in the picture. Why
09:15:30 25 is it backwards?

1 A. Because when it actually smashes in the pill press
2 together, then it's readable for the person who is looking
3 at it, so it has to backwards on the punch die.

4 Q. And the punches and on the face of the punches that
5 we have seized in this exhibit, I believe it's 13.13, the
6 boxes of dies, you had a chance to actually look at those,
7 correct?

8 A. I did.

9 Q. Did you see that similar backwards, as we read it,
10 looking down at it?

09:15:59 11 A. I did.

12 Q. Let's look at one last page in this exhibit. Could
13 we go to page 30.

14 What's this we're looking at?

15 A. This is another eBay receipt showing that he
16 purchased it as a guest, that Aaron Shamo purchased it as a
17 guest. He paid \$124 through PayPal for it, and it's the
09:16:25 18 other mold for the A-215 pill punch that goes in the pill
19 press.

20 Q. Thanks. I want to change gears one last time
21 entirely. Such is the life of a case agent. Let's talk for
22 a minute now about customers of Mr. Shamo's. Did you
23 spearhead agents' efforts to investigate Pharma-Master's
24 customers?

25 A. I did.

1 Q. Could we look at Exhibit 14.30. And if we could
09:16:57 2 look at page 1,854. We have had this exhibit up quite a bit
3 for the jury. This is the combined daily order sheets,
4 correct?

5 A. It is.

6 Q. And I just wanted to pull out this page to talk
7 about kind of what you saw as an investigator. So we're
8 highlighting now this sale going to Alivia Luckcuck, who
09:17:27 9 there has been some testimony about. When you first started
10 looking at these 1900 pages of orders, did the name on the
11 shipping address, did it mean anything to you?

12 A. No, not necessarily, because as an investigator, in
13 a lot of cases with drug trafficking organizations,
14 sometimes when -- when there are customers orders such as
15 this, they don't use their real name, so we didn't know who
16 all was real and who wasn't.

17 Q. So when you say they don't use their real name,
09:17:59 18 sometimes it's maybe a fake identity they use?

19 A. True, yes.

20 Q. Or an alias?

21 A. Correct.

22 Q. Did some people use straw purchasers?

23 A. Yes.

24 Q. And maybe we could just define that. What's a
25 straw purchaser?

1 A. So a straw purchaser is somebody who the leader of
2 the organization has purchase an item and have it sent to
3 them or sent to somebody else so it sends another layer of
4 anonymity away from the leader of the organization.

5 Q. And then there's been testimony that at least some
09:18:29 6 people used package receivers, correct?

7 A. Correct.

8 Q. And Ms. Luckcuck is a package receiver?

9 A. She is.

10 Q. For the large purchasers, so for this purchaser for
11 example, Trustworthy Money, who is purchasing 10,000 of the
12 Fentanyl pills, what did you and other agents do to further
13 investigation into these types of large purchases?

14 A. When we reviewed all of the pages -- there's 1,984
09:18:57 15 pages of customer orders. And, as we reviewed them, we
16 pulled out the orders of -- the larger orders that were
17 clearly not personal use orders, and we sent leads all over
18 the United States to different law enforcement jurisdictions
19 so that they could follow up on those cases because that was
20 clearly supplies for a dealer in that area.

21 Q. And that took care of the large orders, but I'm
22 hoping you and I can talk about some of the small order
23 customers.

24 A. Uh-huh.

09:19:27 25 Q. Have you personally investigated more than 90 of

1 the small order customers?

2 A. I did personally investigate over 90 of the small
3 orders of clients -- or customers.

4 Q. I want to focus just on five who are mentioned in
5 the Indictment.

6 A. Okay.

09:19:50 7 Q. So if we could start first with Gavin Keblish. If
8 we could look at page 748. Do you see his name at the top
9 there?

10 A. I do.

11 Q. Can you explain what was ordered in that
12 transaction?

13 A. I can. Gavin Keblish, his address is 54 Seatuck
14 Avenue in East Port, New York. He went under the moniker
15 AJM6753. He ordered Roxy Oxy, 30 milligrams. He ordered 40
09:20:25 16 of them on May 5, 2016, and had priority mail for that
17 package.

18 Q. And then let's look at one more order. If we could
19 go to page 1,214. There's an extra zero in there. Thanks.
20 What did he order on that date?

21 A. He ordered M-box 30 Oxycodone, 30 milligrams. He
09:20:59 22 ordered 20 of those using the moniker AJM6753 and had them
23 sent to him at the 54 Seatuck Avenue, East Port, New York
24 address.

25 Q. Did you look into Mr. Gavin Keblish?

1 A. I did.

2 Q. Did you speak with detectives in this area?

3 A. I did.

4 Q. Did you speak to his family?

5 A. I did.

6 Q. They are here in the courtroom with us?

7 A. They are.

09:21:28 8 Q. Was Gavin a real person?

9 A. He was.

10 Q. Did you speak to Gavin to confirm that he ordered
11 the Fentanyl-laced fake oxycodone from Pharma-Master?

12 A. I did not.

13 Q. Why not?

14 A. He's dead.

15 Q. Let's talk about Conner Valenter. Could we look at
09:21:57 16 page 450. Do you see his name on there near the bottom?

17 A. I do.

18 Q. What was ordered on that date, February 23?

19 A. Conner ordered Fentanyl Roxy Oxycodone, 30
20 milligrams, one pill on February 23 of 2016, using the
21 moniker Spitta.

09:22:25 22 Q. Could we look at page 489. What did he order on
23 February 25?

24 A. He ordered Fentanyl Roxy Oxycodone, 30 milligrams,
25 eight pills, under the moniker Spitta, and he had them sent

1 to his address in Seattle, Washington.

09:22:54 2 Q. And, finally, could we look at page 563. What did
3 he order on March 3?

4 A. He ordered Fentanyl Roxy Oxycodone, 30 milligram,
5 five tablets using the same moniker of Spitta, and he had
6 them sent to his address in Seattle Washington.

7 Q. Did you look into Mr. Conner Valenter?

8 A. I did.

9 MR. SKORDAS: Your Honor, could we approach?

10 THE COURT: Yes.

09:29:54 11 (Conference among the Court and the attorneys at the bench
12 outside of the hearing of the jury.)

13 THE COURT: These aren't the people who you are
14 claiming the homicide count on, are they?

15 MR. SKORDAS: No.

16 MR. GADD: So the homicide count, his name is
17 Ruslan Kluyev.

18 THE COURT: RK?

19 MR. GADD: Yes, RK. These people are charged in
20 the Indictment; specifically, Mr. Shamo distributed drugs to
21 them. So this was our -- our written motions that were done
22 I think in April and May, where the ruling was we couldn't
23 mention the other customers who are now dead from an
24 overdose, those folks whose names are in the Indictment and
25 Mr. Shamo is charged with distributing drugs that did go to

1 them. I can ask my agent if she interviewed them because
2 that's a major investigative step that any investigator
3 would take. She was ordered by Your Honor to not mention
4 that their death was an overdose. In fact, you will notice
5 we are not going into the death at all.

6 MR. SKORDAS: You've got to be kidding me.

7 MS. BECKETT: The ruling was very contrary on the
8 overdose deaths, and it was specific to: They are allowed
9 to discuss Gregory Lee, who was an overdose, who was
10 investigated because they weren't able to interview him. He
11 is not here testifying. That was what was allowed. They
12 are very, very, very far over the line when they have a
13 family out here crying in the courtroom, and it's clear that
14 the indication is that he was an overdose death. Your
15 Honor's ruling was very clear in that regard.

16 THE COURT: I don't have the order with me, I don't
17 think, but I thought -- I thought you were going to -- I
18 guess I thought there would be a stipulation: The reason we
19 didn't call -- these people weren't investigated. They
20 weren't called because they were dead. That's not really --
21 I mean, you're leaving more of an impression they died of an
22 overdose and you're trying to connect it to Shamo.

23 MR. SKORDAS: Of course he is.

24 MR. GADD: I'm happy to ask her right now: These
25 four men we are talking about were not -- Mr. Shamo was not

1 charged with causing their deaths.

2 We will make it very clear.

3 THE COURT: Yeah, you should do it. But then what
4 else do you need to do?

5 MS. BECKETT: That doesn't fix it.

6 MR. GADD: I still need to prove the counts in the
7 Indictment, the people distributing drugs to these people.
8 The Grand Jury charged it. I've got to ask these questions.
9 I will clarify to make it very clear he is not charged with
10 causing their deaths.

11 MR. SKORDAS: But you can ask if he distributed
12 drugs to them, and you can show that.

13 But when he then asked: Why didn't you interview
14 them -- he didn't ask that about a single other person who
15 allegedly received drugs -- so that she can say, "Because
16 they are dead."

17 That clearly violates the order of this Court.

18 THE COURT: It seems to me it does.

19 MR. GADD: We have asked other people. Jared
20 Gillespie, the other person named in the Indictment, he was
21 interviewed. That was the question we asked. These are
22 just the people named in the Indictment. The Grand Jury
23 charged it. It's part of what I have to prove.

24 MS. BECKETT: You're two steps beyond that when you
25 have family in the courtroom and when you ask him whether or

1 not the family is present. You asked whether or not they
2 were present in the courtroom.

3 MR. GADD: Yes, I did.

4 MS. BECKETT: You have gone way over what the
5 Court's ruling was on the overdose.

6 MR. SKORDAS: I think we need to make a motion
7 outside the presence of the jury at the next break.

8 MR. GADD: Let's take a minute and look up the
9 order or the minutes. This is clearly what was talked about
10 at the hearing.

11 THE COURT: I didn't envision it going this way. I
12 envisioned it, you can say, "These people were charged in
13 the Indictment."

14 MR. GADD: Yes.

15 THE COURT: "We couldn't interview them because
16 they are not here. They are dead."

17 MR. GADD: I did ask that.

18 THE COURT: Why do you need to ask anything else, I
19 guess, is my question.

20 MR. GADD: Oh, because we have set this up --
21 because in order for them to be guilty, he has to send it to
22 a real person. How do you prove that they are a real
23 person? You have to investigate it. Right? You talk to
24 detectives who talk to family if you can't find the person.

25 THE COURT: Okay. So you're entitled to give

1 evidence that he sent it to him, but the problem is, you are
2 tying that to the deaths. You've got to say something about
3 you're not charging him with the death of this person.

4 MR. GADD: I will do that right now.

5 MR. SKORDAS: In fact, he did, and if this was a
6 real person. She answered yes. At that time the inquiry is
7 over. Instead, he continues and asks: Did you interview
8 him?

9 No.

10 Why not?

11 Because he's dead.

12 And his whole family is here?

13 You've got to be kidding me, Judge. This is
14 outrageous. I'm sorry.

15 THE COURT: You're going to ask for a mistrial, and
16 I'm going to deny it.

17 MR. SKORDAS: I understand. I need to, though.

18 THE COURT: You don't need to get anymore than that
19 he sent them to him. Why do we need to know anything else?

20 MR. GADD: I understand what the Court has said,
21 and I'll limit myself to it.

22 THE COURT: All right.

09:29:55 23 MR. GADD: Okay.

24 (Proceedings continued in open court.)

25 THE COURT: Go ahead, Mr. Gadd.

1 Q. BY MR. GADD: Special Agent Keys, let's clarify so
2 that we're abundantly clear. The people that we're going to
3 talk about, starting with Mr. Keblish, now Mr. Valenter,
4 they are named in the Indictment, but Mr. Shamo has not been
5 charged with causing their death?

09:30:29 6 A. That is correct. They were his customers.

7 Q. Let's take -- if you'll excuse me, I forgot which
8 question I left off on.

9 A. Right. I don't remember.

10 Q. Let me circle back, and I'll make sure we get the
11 important ones.

12 A. Okay.

13 Q. You looked into Mr. Conner Valenter?

14 A. I did.

15 Q. Was he a real person?

16 A. He was.

09:30:54 17 Q. Let's talk about Edward Blatz. There is a number
18 of orders here. We don't need to necessarily look at them
19 all, but let's look at the first. We have page 417. Do you
20 see the order there for Ed Blatz?

21 A. I do.

22 Q. What was ordered?

23 A. He ordered Roxy Oxycodone, 30 milligrams, two
09:31:28 24 tablets on February 21 using the moniker Veldgear, and he
25 had it shipped to him in Washington, D.C.

1 Q. Now let's jump to the last, if we could look at
2 page 624, and then it goes on to the next page. You can see
3 that there?

4 A. Yes.

5 Q. What did he order this time?

09:31:59 6 A. He ordered Roxy Oxycodone, 30 milligrams, 40
7 tablets, on April 5, 2016, under the moniker Veldgear. And
8 he had it shipped to the same address in Washington, D.C.

9 Q. Did you look into Mr. Edward Blatz?

10 A. I did.

11 Q. Was he a real person or just a name on a page?

12 A. He was a real person.

09:32:28 13 Q. If we could look at Exhibit 18.01. And if we could
14 look at page 2. Who is that?

15 A. This is Gregory Lee.

16 Q. Did you also find orders sent to his address?

17 A. I did.

18 Q. If we could look at -- jumping back to Exhibit
09:32:57 19 14.30, if we could look at 664. And then it goes on to the
20 next page, so if you could highlight the bottom. Perfect.
21 If you could call that out for us.

22 What was ordered on April 12?

23 A. So April 12 shows that he ordered Roxy Oxycodone,
09:33:28 24 30 milligrams, one tablet, but it was combined with a second
25 order the next day of Roxy Oxycodone, 30 milligrams, ten

1 tablets, using the moniker T-Wad. And it was sent to
2 Gregory Lee at 3 Midvale Drive, Daly City, California.

09:33:51 3 Q. Let's look at one additional order. This is on
4 page 862. And then it goes on -- like the previous one, it
5 goes on to the next page. So there's the top half. Do you
6 see what was ordered there?

7 A. I do. He ordered Roxy Oxycodone, 30 milligrams, 10
8 tablets, on June 6, 2016, using the moniker T-Wad, and it
9 was sent to Gregory Lee at his Midvale Drive address in Daly
10 City.

11 Q. That Midvale Drive is what you see here?

12 A. Yes.

09:34:29 13 Q. Was Mr. Lee a real person?

14 A. He was.

15 MR. GADD: If I can have just one moment?

09:34:42 16 THE COURT: Sure.

17 MR. GADD: Nothing further. Thank you.

18 THE COURT: You thank you, Mr. Gadd.

19 You may cross examine, Mr. Skordas.

09:35:28 20 MR. SKORDAS: Thank you, Your Honor.

21 CROSS EXAMINATION

22 BY MR. SKORDAS:

23 Q. Agent Keys, were you involved in this investigation
24 even after November, when Mr. Shamo was taken into custody?

25 A. I was.

1 Q. And did you help other agents serve a search
2 warrant on a house in Cottonwood Heights in February of
3 2017?

4 A. I did.

5 Q. And that was some, I guess, two and a half or three
6 months after Aaron was taken into custody, correct?

7 A. Yes.

09:35:59 8 Q. And you served the search warrant on the home that
9 Aaron had previously lived, correct?

10 A. I served it on the garage of the home that he had
11 lived in.

12 Q. Okay. And you -- you found some items in the home,
13 correct?

14 A. In the garage.

15 Q. All right. In the garage. I'm sorry.

16 A. Sorry. I have to be specific.

17 Q. That's all right. And among those items was a
18 crate that had a press in it. Correct?

09:36:28 19 A. Correct. The DEA, during the search warrant, had
20 taken the press out of the crate, but the crate was still in
21 the garage.

22 Q. Of the home?

23 A. Correct.

24 Q. And you seized the crate?

25 A. Yes. Parts of it, yes.

1 Q. Especially this part?

2 A. Yes.

3 Q. What is this part?

4 A. This is one of the sides of the wooden crate that
5 the press came in.

6 Q. And for the record, I'm showing you Government's
7 Exhibit 13.14, I think?

8 A. That's correct.

9 Q. And there's an addressee on that crate, correct?

09:37:00 10 A. Yes.

11 Q. Who's the addressee?

12 A. Luke Paz.

13 Q. At what address?

14 A. Hold on. I got to look through the tape. The
15 address is 1500 Woodland Avenue, in Salt Lake City, Utah.

16 Q. And that crate was found in February in Cottonwood
17 Heights, correct?

09:37:28 18 A. In the garage at the Titian Way home, yes.

19 MR. SKORDAS: I believe that's all I have, Your
20 Honor.

21 THE COURT: Thank you.

22 Any redirect?

23 MR. GADD: No, sir. Thank you.

24 THE COURT: Thank you.

25 You may step down, Ms. Keys. Thank you.

1 You may call your next witness.

09:38:07 2 MR. GADD: Your Honor, the United States calls Tori
3 Grace.

4 THE COURT: Come forward and be sworn, please,
5 right up here at the podium.

6 TORI GRACE,
7 the witness hereinbefore named, being first duly cautioned
8 and sworn or affirmed to tell the truth, the whole truth,
9 and nothing but the truth, was examined and testified as
10 follows:

09:38:15 11 THE CLERK: If you'll just come to the witness box.
12 Please state your name and spell it for the record.

13 THE WITNESS: Tori Grace. T-o-r-i. G-r-a-c-e.

14 THE COURT: Go ahead.

15 DIRECT EXAMINATION

16 BY MR. GADD:

17 Q. Ms. Grace, are you prepared to testify about the
18 death of your friend Russ?

19 A. Yes.

09:38:58 20 Q. Before we do that, I'd like to give the jury just a
21 very brief idea of kind of your background. Can you tell us
22 a little bit about yourself?

23 A. I live in the San Francisco Bay area. Right now I
24 work full time, and I'm getting ready to go back to school
25 to study anthropology.

1 Q. Back in 2016, you were in school, correct?

2 A. Uh-huh.

3 Q. Were you at San Francisco State?

4 A. Yes.

5 Q. After Russ' death, did you move home?

6 A. I did.

09:39:29 7 Q. And school starts next week?

8 A. Yes.

9 Q. Can we look at 18.01 again.

10 Who is that?

11 A. Russ.

12 Q. That's the name that he preferred to go by, right?

13 A. Yes.

14 Q. Was his full name Ruslan Kluyev?

09:40:00 15 A. Yes.

16 Q. Did you know his family?

17 A. I meet his parents after he passed.

18 Q. Could we look at page 2.

19 Who is that?

20 A. It was Gregg.

21 Q. Was his full name Gregory Lee?

22 A. (Witness nods.)

23 Q. How did you and Gregg meet?

09:40:31 24 A. We met through two mutual friends while I was still
25 in high school.

1 THE COURT: Can you hear her?

2 You need to speak up right into the microphone, if
3 you would, please.

4 Q. BY MR. GADD: You can adjust it if you want. I'll
5 repeat that last question, so we make sure everyone heard.
6 How did you and Gregg meet?

7 A. We met through two mutual friends while I was in
8 high school.

9 Q. And at some point you started dating, correct?

10 A. Yes.

11 Q. Do you remember the first time you met Russ?

12 A. Vaguely, yes.

09:40:58 13 Q. How did you meet him?

14 A. Gregg and I met him in San Francisco.

15 Q. He and Gregg knew each other, correct?

16 A. Yes. They met online.

17 Q. And at some point, did Russ move in with Gregg?

18 A. Yes, he did.

19 Q. Was that at their address, 3 Midvale Drive in Daly
20 City?

21 A. Yes.

22 Q. If it's okay, I want to talk just a minute about
09:41:27 23 drug use. Did Russ and Gregg use drugs?

24 A. Yes, they did.

25 Q. Did you sometimes use with them?

1 A. I did.

2 Q. How many days have you been clean?

3 A. Since Gregg passed. About two years, two and a
4 half years.

5 Q. Russ, specifically, what sort of drugs did he use?

6 A. He used anything he could get his hands on.

09:41:56 7 Q. Did you ever see them go online to buy their drugs?

8 A. Only a few times.

9 Q. Do you remember what website they went to?

10 A. AlphaBay.

11 Q. When they would order drugs online, how would the
12 drugs arrive?

13 A. Through the mail.

14 Q. Did you actually see packages arrive?

15 A. I've only seen two packages.

16 Q. What did the packages look like?

09:42:29 17 A. Like U.S.P.S. envelopes.

18 Q. Did you get to see what was inside the packages?

19 A. Only a couple times, the only two times that they
20 came.

21 Q. What did you -- what did you see inside the
22 packages?

23 A. They were usually packaged in, like, miscellaneous
24 items in, like, these little metallic pouches.

25 Q. And inside the pouch, what did the -- what did the

1 drugs look like?

09:42:56 2 A. The drugs that I saw both times were MDMA.

3 Q. And you recognized it because you had seen it
4 before?

5 A. Yes.

6 Q. Could we talk for a minute about June 12, 2016, so
7 the night before Russ' death. Were you and Gregg out that
8 night?

9 A. Uh-huh.

10 Q. Had you been eating dinner somewhere?

11 A. Yeah. At his parents' house.

09:43:28 12 Q. And then did you go back to Gregg and Russ'
13 residence?

14 A. Yes.

15 Q. About what time of day or night was it when you got
16 back to that residence?

17 A. So, around 10:30, 11.

18 Q. In the evening?

19 A. In the evening.

20 Q. Were you met there by Russ?

21 A. Yeah. He let us in.

22 Q. Did it appear to you he had been drinking?

23 A. Yeah.

24 Q. It was fairly obvious?

09:43:57 25 A. Yeah. He was still pouring himself more drinks

1 when we got there.

2 Q. Do you happen to remember what he had been
3 drinking?

4 A. Vodka.

5 Q. That night, did you and Gregg hang out with Russ
6 for a little while?

7 A. Yeah. Only for about 15 minutes.

8 Q. Was it inside of his room?

9 A. Uh-huh.

10 Q. If we could look at page 3. Do you recognize this?

11 A. Yes.

09:44:30 12 Q. What is it?

13 A. Russ's desk.

14 Q. Was it inside his room?

15 A. Yes.

16 Q. While you were hanging out with him, did you see
17 him grind up two pills?

18 A. Yes.

19 Q. Do you know what type of pills they were?

20 A. Some kind of opiate. I knew that.

21 Q. Did you get to see the pills?

22 A. I only saw them, like, after he had crushed them.

23 Q. Do you know where he got the pills?

09:44:58 24 A. I assumed he got them online.

25 Q. Could we look at page 4.

1 Do you know what that is?

2 A. That's what he used to crush them up, yeah.

3 Q. It's a battery, right?

4 A. Yeah.

5 Q. And they would crush them on the desk?

6 A. Yeah.

7 Q. Could we look at page 5.

8 What's that?

9 A. It's what he used to snort the drugs.

09:45:28 10 Q. And, specifically, is it kind of the blue rolled up
11 note?

12 A. Yeah. It's a Post-it note.

13 Q. I want to ask you some questions about Russ
14 specifically, so if we could look at page 1. And maybe --
15 you are the best witness to clarify this. What's he
16 wearing?

17 A. He was really into all tech stuff, so I actually
18 don't know what it is.

09:45:58 19 Q. Just sunglasses and then something else?

20 A. Yeah.

21 Q. But he didn't always wear that, right?

22 A. No.

23 Q. Okay. So that night, June 12, were you concerned
24 about Russ snorting two pills?

25 A. Yes, I was.

1 Q. Why?

2 A. Because he was already drinking.

3 Q. Did he show any signs of use after he snorted them?

4 A. Yeah.

5 Q. What did you observe?

09:46:28 6 A. He immediately started to, like, nod, so, like,
7 fall asleep and wake up, and he couldn't stand up anymore.

8 Q. Did he lay down?

9 A. He did, yeah.

10 Q. Were you and Gregg asked to check on him?

11 A. Yeah. He did ask us that.

12 Q. And did you check on him?

13 A. Yeah.

14 Q. When you would check on him, what sort of things
09:46:58 15 were you looking or listening for?

16 A. That he was still breathing.

17 Q. How many times do you think you checked on him that
18 night?

19 A. I checked on him about four or five times, but
20 Gregg went in there, like, two more times more than I did.

21 Q. But when you were watching him, did you notice
22 anything about his breathing?

23 A. He seemed to be breathing like he always did when
24 he slept. He was a loud snorer, so every time we went in,
09:47:28 25 he was still snoring pretty loudly.

1 Q. The last time you went in, did you and Gregg roll
2 him into the recovery position?

3 A. We did, yeah.

4 Q. Can you just briefly explain to the jurors what the
5 recovery position is?

6 A. It's where you lay the person on their side and
7 have their leg go over their body and then their head rest
8 on their elbow facing down.

9 Q. Why did you do that?

09:47:58 10 A. In case he threw up, and we didn't want him to
11 choke on his own throw up.

12 Q. Let's talk about the following morning, so June 13,
13 2016. What did you do that morning?

14 A. I got up and went to work.

15 Q. And when did you find out that Russ had passed?

16 A. About two after -- two hours after I started my
17 shift.

09:48:27 18 Q. You have a good support system, correct?

19 A. Uh-huh.

20 Q. Your mom is here today supporting you?

21 A. (Witness nods.)

22 Q. If I could just ask you about two more pictures.
23 If we could look at page 7.

24 Do you recognize the room.

25 A. Yes.

1 Q. Is that Russ' room?

2 A. (Witness nods.)

09:48:59

3 Q. And maybe just so I can help the court reporter,
4 you nodded your head in the affirmative, correct?

5 A. Yes.

6 Q. Do you see what looks like a garbage can in the
7 foreground on the left side of the photo?

8 A. Yes, I do.

9 Q. And do you see the envelope on top?

10 A. Yes.

11 Q. I want to show you a closer look at the envelope.

12 Could we look at page 8.

13 Do you recognize this envelope?

14 A. I don't. No.

09:49:28

15 Q. Did you have any friends in Sandy, Utah?

16 A. No.

17 Q. Do you know if Gregg had any friends in Sandy,
18 Utah?

19 A. No, he didn't.

20 Q. Russ?

21 A. No.

22 MR. GADD: No further questions. Thank you.

23 THE COURT: Thank you.

24 You may cross examine, Mr. Sam.

25 CROSS EXAMINATION

1 BY MR. SAM:

09:49:59 2 Q. Ms. Grace, thanks for being here today. And I just
3 want to ask you a few questions about Russ and Gregg. On
4 that day, on June 13, that was your first day of work; is
5 that right?

6 A. It was, yeah.

7 Q. Where were you working at?

8 A. Philz Coffee in San Francisco.

9 Q. Okay. And you received a call from Gregg that day?

10 A. Uh-huh.

11 Q. Telling you what happened to Russ?

12 A. Yeah.

13 Q. Okay. And then, later on that day, you got one or
14 two calls from Daly City police; is that right?

09:50:30 15 A. Yes.

16 Q. Okay. And they asked you to come in to talk; is
17 that right?

18 A. Uh-huh.

19 Q. So, I think you received one call from Officer
20 Sabins. Do you remember that?

21 A. Yes.

22 Q. And then another one from Officer Garrett, I think.
23 And then he actually picked you up and took you to the Daly
24 City Police Department that day; is that correct?

25 A. Yes.

1 Q. I think on the way there, too, your mother called
2 you or you called your mother?

09:51:00

3 A. Uh-huh.

4 Q. Because she was concerned about the situation; is
5 that right?

6 A. Yes.

7 Q. Okay. And you -- and so you gave two interviews
8 to -- there's one that day with the Daly City Police
9 Department and then, approximately two years later, some
10 agents from Utah came and interviewed you at your home; is
11 that correct?

12 A. Yes.

09:51:27

13 Q. Okay. And I just wanted to review with you what --
14 your friendship with Russ and kind of some of the things
15 that were going on. He was a heavy drug user; is that
16 right?

17 A. He was.

18 Q. And I think you told the Daly City Police that he
19 used -- he was a recovering heroin addict; is that right?

20 A. Yeah, he was.

09:52:01

21 Q. But he was using all kinds of drugs and alcohol.
22 And in that -- and he put a lot of pressure on his peers,
23 including you and others, to participate in drug use; is
24 that right?

25 A. Uh-huh.

09:52:26

1 Q. Okay. And you had a knowledge about Fentanyl,
2 correct, before this day, before you came home with -- or
3 went to Gregg and Russ's apartment, you had knowledge of
4 Fentanyl before that; is that right?

5 A. Yes.

6 Q. And had you seen Gregg or Russ use Fentanyl before
7 that time?

8 A. Not before that time, no.

9 Q. Okay. But you had heard about it and you
10 understood the effects of it?

11 A. Yes.

12 Q. Okay. And your testimony was that you -- when you
13 came home and you found Russ, he had drank a whole bottle of
14 vodka. Is that your testimony?

15 A. Yes.

09:52:58

16 Q. And that you were concerned, at that point, when
17 you went into his room with him and he was crushing up
18 pills, what he said was Fentanyl. And why were you
19 concerned after observing him drinking alcohol with him
20 crushing up Fentanyl pills?

21 A. Because I know that mixing those two kinds of
22 things can be very deadly.

23 Q. Yeah. Okay. So it's very dangerous. You
24 understood that?

25 A. Uh-huh.

09:53:29 1 Q. You and Gregg both knew that, so you were -- did
2 you try to stop him or anything?

3 A. We did, yeah.

4 Q. Okay. And then -- then you saw the effects of it,
5 and you eventually put him in a recovery position; is that
6 right?

7 A. Yeah.

8 Q. Have you had a situation like that before, where
9 you have put either Russ or a friend in that position?

10 A. That was the first time.

11 Q. Okay. But that's something that you knew was
09:53:57 12 something that would be preventative if there were a
13 problem?

14 A. Yeah.

15 Q. And so you were trying to help him out with that.
16 I just want to ask you about Gregg. And I know these are
17 sensitive topics, but Gregg passed away less than a year
18 after Russ; is that right?

19 A. Yes.

09:54:29 20 Q. And you were not present when Gregg passed away; is
21 that right?

22 A. No, I wasn't.

23 Q. Okay. One of your good friends -- I apologize.

24 One of your good friends was there, Nicole and Sean, and it
09:54:47 25 was maybe kind of a similar situation. And I wanted to ask

1 you about your statement when the -- when agents came and
2 met with you in 2018. You stated that, after Russ died,
3 that you and Gregg kind of started to drift apart. Is that
4 right?

5 A. Uh-huh.

6 Q. And why was that?

7 A. Because Gregg continued to use, and I thought it
09:55:30 8 was dumb after, like, what his friend had just gone through.

9 Q. Okay. And you knew it was dangerous, risky
10 behavior. In fact, I think you told agents, too, when you
11 met with them in 2018, that you and Gregg said that you were
12 both concerned for Russ because there was alcohol involved,
13 and you said that the risk was too high?

14 A. Uh-huh.

09:55:58 15 Q. To be involved with taking other drugs in that
16 situation?

17 A. Yeah.

18 Q. And I'm sure your mother is a good influence for
19 you.

20 A. Uh-huh.

21 Q. I know that from her contacting you when you
22 were -- on that day when Russ passed away, and I'm sure she
23 was concerned because she didn't want something like that to
09:56:23 24 happen to you. So I'd just encourage you to keep up the
25 good work and keep up and encourage, you know, your college

1 and things, and there's a lot of potential for you, and I
2 encourage you to keep on that path, so...

3 A. Thank you.

4 MR. SAM: I don't have any other questions.

5 THE COURT: Thank you, Mr. Sam.

6 Any redirect?

7 MR. GADD: No, Your Honor.

8 Thank you very much.

09:56:58 9 THE COURT: You may step down, and you're excused.
10 Let's take our first break, and we'll be in recess until
11 about quarter after 10.

09:57:53 12 THE CLERK: All rise, please.

13 (Whereupon the jury leaves the courtroom.)

09:57:53 14 (Bench conference.)

15 THE COURT: If you're going to make a motion for a
16 mistrial, it's better that it's in writing.

17 MR. SKORDAS: That's fine.

18 THE COURT: You'll get a better record, and you
19 guys can respond to it, so you'll have a paper record, and
20 it will be better.

21 MR. SKORDAS: Very well. I'll get that done, but I
22 want the record to show that we intend to make a motion for
23 a mistrial based on what we think is the government's
09:58:27 24 violation of this Court's order in Document Number 226,
25 where the Court indicated that the government agrees that it

1 will not tie deaths of unavailable witnesses to the death or
2 say that the deaths resulted from overdose -- from
3 overdoses.

4 I think that the government -- and I'll probably
5 have to get a record of what happened, but I think the
6 government continued to violate the Court's order even after
09:58:57 7 we took a side bar and asked that he discontinue that line
8 of questioning.

9 THE COURT: There may have been some violation
10 earlier. I don't think he violated it after. And I'm
11 probably going to deny your motion, but I want you to have
12 the record that you want.

13 MR. SKORDAS: Very well. Okay. Thank you.

14 THE COURT: And in the context of this overall
09:59:25 15 trial, I think the violation may not make much difference,
16 if any, but you're entitled to a record that you're
17 satisfied with, and you're entitled to your record, too.

18 MR. GADD: Certainly. We'll make our objection
19 when they make it.

20 THE COURT: Thank you both.

21 MR. SKORDAS: Thank you, Your Honor.

22 MR. GADD: Thank you.

10:01:16 23 (Bench conference concluded.)

10:13:19 24 THE COURT: Are you ready to proceed?

25 MR. GADD: Yes, sir.

1 THE COURT: We'll get the jury and proceed.

2 THE CLERK: All rise, please.

3 (Whereupon the jury enters the courtroom.)

4 Please be seated.

5 THE COURT: Have you got a witness ready?

10:18:42 6 MR. GADD: I do.

7 THE COURT: The government may call its next
8 witness.

10:20:00 9 MR. GADD: Your Honor, the United States calls
10 officer Sandra Sabins.

11 THE COURT: Come forward and be sworn, please.

12 SANDRA SABINS,
13 the witness hereinbefore named, being first duly cautioned
14 and sworn or affirmed to tell the truth, the whole truth,
15 and nothing but the truth, was examined and testified as
16 follows:

10:20:13 17 THE CLERK: Please come around here. Please State
18 your name and spell it for the record.

19 THE WITNESS: Sandra Sabins. S-a-n-d-r-a.
20 S-a-b-i-n-s.

21 THE COURT: You may proceed, Mr. Gadd.

22 MR. GADD: Thank you, sir.

23

24

25 DIRECT EXAMINATION

1 BY MR. GADD:

2 Q. Are you prepared to testify about your part in the
3 investigation of Russlan Klyuev's overdose death?

4 A. Yes, I am.

10:20:58 5 Q. Before we do that, I want to give the jury over
6 here just a summary of your background and your experience.
7 Can you tell us a little bit about yourself?

8 A. Yes. I am employed by the Daly City Police
9 Department for approximately 30 years, originally assigned
10 to the patrol division, the community policing unit, station
11 supervisor and now patrol.

12 Q. And there is light at the end of the tunnel for
13 you, right?

14 A. Yes.

15 Q. You're going to retire at some point?

16 A. Yes.

17 Q. Congratulations. I want to talk to you about June
10:21:29 18 13, 2016. Were you working that day?

19 A. Yes, I was.

20 Q. Did you go do 3 Midvale Drive in Daly City?

21 A. Yes, I did.

22 Q. Why did you go there?

23 A. A report of a subject in full arrest.

24 Q. And full arrest means?

25 A. He was deceased.

1 Q. Is that what you found when you arrived?

2 A. Yes, I did.

3 Q. As part of your duties that day, you took a number
4 of pictures at the scene of the death, correct?

5 A. Correct.

10:21:59 6 Q. If we could just briefly look through those. Could
7 we go to 18.01 and then page 3.

8 Do you recognize that?

9 A. Yes, I do.

10 Q. And that's one of the pictures that was taken that
11 day, correct?

12 A. Correct.

13 Q. Was this in the room with the deceased?

14 A. It was.

15 Q. Could we look at page 4. Is that also a picture
16 you took?

17 A. Yes.

10:22:29 18 Q. How did you know to take that picture?

19 A. I photographed the desk in its entirety.

20 Q. At that point, you didn't know it had anything to
21 do with the death, correct?

22 A. I did not.

23 Q. Could we look at page 5.

24 What's this that's pictured there?

25 A. Also items that were on his desk. A piece of

1 rolled up paper and two plastic credit cards.

10:22:59 2 Q. At the time that you were taking the pictures, did
3 you have a sense that it was possibly an overdose death?

4 A. Possibly.

5 Q. Would these items on the desk, would they stick out
6 to you as a police officer and an investigator?

7 A. Yes.

8 Q. What are the cards sometimes used for?

9 A. Crushing substances.

10 Q. And then the rolled up paper?

11 A. Ingesting the substance.

12 Q. Could we look at page 6.

10:23:30 13 What's this?

14 A. The deceased's bed.

15 THE COURT: Can you speak up a little, please.

16 THE WITNESS: The bed that the deceased -- was in
17 his room.

18 Q. BY MR. GADD: If you want, that will move, so you
19 can pull the base towards you if it helps. Okay. On the
20 bed, it appears that there's some glasses?

21 A. Yes.

22 Q. And that's how you remember it?

23 A. Yes.

24 Q. And then it also appears that there might be a
25 stain. Do you remember that?

1 A. Yes.

10:23:57 2 Q. Could we look at page 7. And if you'll zoom out
3 just a little.

4 Do you recognize this?

5 A. Yes, I do.

6 Q. Can you tell us what we are looking at?

7 A. The deceased on the floor in his room.

8 Q. Is that the desk in the background?

9 A. Yes, it is.

10 Q. And, then over on the left, it appears that there's
11 a trash can just inside the door. Is that how you remember
12 it?

13 A. Yes, I do.

14 Q. And then if we could look at page 8.

10:24:30 15 I want to take you now to this picture. Why take a
16 picture of this item?

17 A. I photographed the room in its entirety.

18 Q. You didn't know, at this point, that this
19 photograph might lead you to Salt Lake City at one point in
20 the future?

21 A. I did not.

22 Q. I'm going to ask you a few questions about some
23 pictures that we're not showing out of respect. Do you
10:24:57 24 remember what the decedent Mr. Klyuev's face looked like
25 when you arrived?

1 A. I do.

2 Q. Could you describe his face to the jury.

3 A. His face was covered in a type of mucous and a
4 blood substance that appeared to be coming from his nose.

5 Q. Did you see any signs, when you were investigating,
6 of foul play?

7 A. No, I did not.

10:25:28 8 Q. Was Mr. Klyuev's body turned over to the medical
9 examiner's office for an autopsy?

10 A. Yes, it was.

11 Q. Can we go back -- Ms. Laughter, can we go back to
12 18.01 and look at page 7, I believe.

13 So, I asked you about the kind of the closeup of
10:26:00 14 the envelope, but I failed to tie it together. That picture
15 we saw on the closeup, the next page, page 8, is that
16 envelope here in page 7?

17 A. Yes.

18 Q. Where is it?

19 A. It's on top of the trash can.

20 MR. GADD: Thank you. No further questions.

21 THE COURT: Thank you, Mr. Gadd.

22 You may cross examine.

23 MR. SKORDAS: We have no questions of this witness,
24 Your Honor, thank you.

25 THE COURT: Thank you. You may step down, and you

1 may be excused. You may call your next witness.

10:26:27 2 MR. GADD: Your Honor, the United States calls Bill
3 Posey.

4 THE COURT: Come forward and be sworn, please,
5 right up here at the podium

6 BILL POSEY,
7 the witness hereinbefore named, being first duly cautioned
8 and sworn or affirmed to tell the truth, the whole truth,
9 and nothing but the truth, was examined and testified as
10 follows:

10:27:16 11 THE CLERK: Please come come around to the witness
12 box. Please state your name and spell it for the record,
13 please

10:27:29 14 THE WITNESS: My name is Bill Posey. P-o-s-e-y.

15 THE COURT: Go ahead, Mr. Gadd.

16 MR. GADD: Thank you, sir.

17 DIRECT EXAMINATION

18 BY MR. GADD:

19 Q. Mr. Posey, are you prepared to testify about the
20 toxicology analysis you conducted on blood from Russlan
21 Klyuev?

22 A. I am.

23 Q. Before we do that, I want to just give the jury a
24 summary of your background and your experience. Can you
25 tell us about your medical education and background?

10:27:57 1 A. I have a Bachelor of Science Degree in Microbiology
2 and a minor in chemistry. I have more than 40 years of
3 experience. I published on six occasions in scientific
4 journals. I'm a member of the California Association of
5 Toxicologists, and I'm a member of the American Academy of
6 Forensic Science. I have also received an award of
7 recognition for contributions to the field by the American
8 Academy.

10:28:29 9 Q. Have you had the chance to testify previously in
10 court hearings?

11 A. I have.

12 Q. And somewhat extensively?

13 A. Yes.

14 Q. If we could talk about the analysis you performed
15 in this case. Did you in fact perform analysis on blood
16 from Russlan Klyuev on June 17 Of 2016?

17 A. Yes.

18 Q. Could we look at Exhibit 18.02.

10:28:58 19 Are you able to see that on your screen?

20 A. I am.

21 Q. Could you walk the jury through your results here?

22 A. In the results, we were asked to do a routine drug
23 screen, which included specific classes of drugs. And they
24 are listed there as being ethyl alcohol, cocaine

10:29:23 25 metabolites, Fentanyl, levamisole were detected. And then

1 there was no opiates, PCP, amphetamines, barbiturates,
2 benzodiazepines, methadone, tricyclic antidepressants or
3 carisoprodol detected, nor was there any acetone detected.

4 Q. So, let's -- I probably got ahead of myself there a
5 little. Let me come back and I'll ask you just a few
6 questions about what you've told us. Maybe first let's
7 start with the blood sample. From whom did you receive it?

10:29:59 8 A. It was from the San Mateo coroner's office.

9 Q. And it's labeled, so you know whose blood you're
10 testing and analyzing, correct?

11 A. Correct.

12 Q. Was the label on it for Klyuev, comma, Russlan?

13 A. Yes.

14 Q. And then some associated case numbers, correct?

15 A. Yes.

16 Q. You took that blood, and how, specifically, did you
17 test it for these controlled substances?

10:30:25 18 A. Well, the alcohol testing was done using the gas
19 chromatograph with a flame ionization detector. In
20 California, it's the method, standard method used to
21 determine alcohols in biological samples.

22 The drugs were screened by one approach, typically
10:30:54 23 using a class-specific screening method, often antibody
24 based. An example would be cocaine would be an individual
25 class in which cocaine and its metabolites would be

1 detectable. The Fentanyl that was detected was screened by
2 a method called high pressure liquid chromatography using a
10:31:25 3 time-of-flight detector. That -- each positive test
4 generates a second test in which known standards and
5 controls are prepared, and the sample is run and identified
6 and quantitated using that method.

7 The method of quantitation with the drugs was high
8 pressure liquid chromatography with a mass spectrometer
9 detector.

10:31:58 10 Q. So if we're looking here at a call out, a blown up
11 version of your results --

12 Ms. Laughter, could we now call out further,
13 starting with blood ethyl alcohol and then going down to
14 Fentanyl, just kind of that box there. Up just a little.

15 Everything else on the page is negative, right?
10:32:28 16 This is -- this is the part that you got some positives in,
17 correct?

18 A. Correct.

19 Q. All right. Let's just focus here now, this top
20 one, blood ethyl alcohol. Is that what you test for when
21 somebody has a DUI?

22 A. Yes, but we also look for other alcohols, but
23 primarily what you find is the drinking type of alcohol,
24 which is ethyl alcohol.

25 Q. And so, like, you know, if someone had a DUI and

10:32:59 1 they were .19, it would be what we see here?

2 A. Correct.

3 Q. And then the next down, cocaine. That was
4 negative?

5 A. Yes.

6 Q. The next three lines down, are those three cocaine
7 metabolites?

8 A. They are.

9 Q. The next one after that starts with l-e-v?

10 A. Levamisole.

11 Q. You notice I let you say it.

12 A. Pardon?

13 Q. You notice I let you say it.

14 A. Yeah.

10:33:28 15 Q. Thank you. That's present. You found that in his
16 blood, correct?

17 A. Correct.

18 Q. Do you know if that's sometimes used as, like, a
19 cocaine cutting agent?

20 A. Yes, as a matter of investigation purposes, we find
21 that this particular cutter usually comes from cocaine that
22 has been cut in South America. Other areas where cocaine is
23 produced, they don't use this as a cutter.

24 Q. And then the last one on your list there is
25 Fentanyl, correct?

1 A. Correct.

2 Q. And that's also positive?

10:34:00

3 A. It is.

4 Q. If I could have just one moment?

5 THE COURT: Sure.

6 MR. GADD: Nothing further. Thank you.

7 THE COURT: Thank you. You may cross examine,

8 Mr. Skordas.

9 MR. SKORDAS: Thank you, Your Honor.

10 CROSS EXAMINATION

11 BY MR. SKORDAS:

12 Q. Good morning, Mr. Pose.

13 A. Good morning.

10:34:27

14 Q. My name is Greg Skordas, and I'm the attorney for
15 Aaron Shamo. I need to ask you a few questions if I could,
16 also, and I'd ask if we could go back to that Exhibit 18.02.
17 Are you familiar, generally, with levamisole? Is that how
18 you pronounce it?

19 A. Yes.

20 Q. What is it? What was it made for?

21 A. It's anti-worm medication.

22 Q. Right. It's for people that have tape worms?

23 A. Correct.

24 Q. Or something like that?

10:34:59

25 A. Used more so in animal purposes such as goats and

1 sheep.

2 Q. It's actually not even something that's prescribed
3 anymore in America, correct? It's not on the --

4 A. I'm not certain of that. It's still used for
5 veterinarians in America, but I don't know about humans.

6 Q. It has its own toxic effects, correct?

7 A. It can, yes.

10:35:28 8 Q. And you indicated earlier that it's also a cutting
9 agent that is something that's used to maybe enhance or
10 increase the toxicity or whatever of cocaine. Is that fair?
11 Toxicity might not --

12 A. I'm not aware that it's used to be beneficial in
13 any way. It's just used to -- since it's a white powder and
14 readily available to a lot of people, at least in South
10:35:59 15 America it's used to cut the drug down so that they can
16 market it more efficiently.

17 Q. Right. And the other items that you've listed
18 here?

19 Could we highlight those a little better, just the
20 same thing you did before, Yvette.

21 The benzo, that was also found in the system?

22 A. Benzoylecgonine, yes.

10:36:29 23 Q. That's a derivative -- or excuse me. It's a
24 metabolite of cocaine?

25 A. Correct.

1 Q. And the methyl ester that's also present, that's
2 also a metabolite of cocaine?

3 A. It is.

4 Q. And cocaethylene?

5 A. Cocaethylene.

6 Q. Thanks. Same thing?

7 A. It's a metabolite, but it's only formed when
8 alcohol has already been consumed.

10:36:57 9 Q. And you did a -- it appears to be a quantitative
10 analysis of some of these drugs as well, correct?

11 A. I did.

12 Q. For example, the alcohol content you say is 0.19
13 grams percent?

14 A. Correct.

15 Q. You're a resident of California?

16 A. Yes.

17 Q. And the legal limit in California for operating a
18 vehicle is less than half of that, correct?

19 A. It's a .08 correct.

20 Q. Right. .08?

21 A. Correct.

22 Q. So it's almost two and a half times the legal
23 limit?

24 A. Yes.

10:37:30 25 Q. And in Utah, it would be even more than that if our

1 legal limit is .05?

2 A. Correct.

3 Q. Four times the legal limit?

4 A. Yes.

5 Q. And you did the same thing with the benzo. You did
6 a quantitative analysis of that, correct?

7 A. Yes.

8 Q. And the Fentanyl?

9 A. Yes.

10 Q. And the Fentanyl was found to be, it looks like
11 nine thousandths of a milligram per liter?

12 A. Correct. If you wanted to convert that to
10:37:57 13 nanograms per mill, it would be 9 nanograms per mill.

14 Q. All right. Thank you.

15 That's all I have, Judge.

16 THE COURT: Thank you.

17 Any redirect?

18 MR. GADD: Just very quickly.

19 If we can keep this one up. Thanks.

20 REDIRECT EXAMINATION

21 BY MR. GADD:

22 Q. You don't just do toxicology analysis for deceased
23 patients, correct?

24 A. Correct.

25 Q. You sometimes do DUI cases, correct?

1 A. Yes.

2 Q. What's the highest blood ethyl alcohol content you
10:38:29 3 have seen in a DUI case for a living patient?

4 A. I have seen individuals up over a .4.

5 MR. GADD: Thank you. No further questions.

6 THE COURT: Thank you.

7 Any further recross?

8 MR. SKORDAS: No, Your Honor.

9 THE COURT: Thank you. You may step down, and you
10 may be excused if you want to be.

11 You may call your next witness.

12 MR. GADD: Your Honor, the United States calls
10:38:55 13 Dr. Thomas Rogers.

14 THE COURT: Come forward and be sworn, please,
15 right up here by Mr. Gadd.

16 THOMAS ROGERS,
17 the witness hereinbefore named, being first duly cautioned
18 and sworn or affirmed to tell the truth, the whole truth,
19 and nothing but the truth, was examined and testified as
20 follows:

10:39:31 21 THE CLERK: Please come around to the witness box
22 here. Please state your name and spell it for the record.

23 THE WITNESS: Thomas Rogers. T-h-o-m-a-s.
24 R-o-g-e-r-s.

25 THE COURT: Go ahead, Mr. Gadd.

1 DIRECT EXAMINATION

2 BY MR. GADD:

10:39:59

3 Q. Dr. Rogers, are you prepared to testify about an
4 autopsy you conducted on Russlan Klyuev?

5 A. Yes, on a person identified to me as such.

6 Q. And before we go into that, I want to talk first
7 about your background and your experience. Could you tell
8 us, what is your medical education and background?

10:40:30

9 A. I attended medical school at the University of
10 California in San Francisco. I did a one-year general
11 surgery internship at the County Hospital in San Francisco.
12 I did a one-year general surgery residency at the University
13 of Virginia. I did a four-year pathology residency at
14 Kaiser Hospital in San Francisco. I a did a one-year
15 forensic pathology residency at the Institute of Forensic
16 Sciences in Oakland.17 Q. That's a lot of school. You work as an autopsy
18 surgeon, correct?

19 A. Yes, I do.

10:41:00

20 Q. Approximately how many autopsies have you
21 performed?

22 A. I estimate it to be between 14 and 16,000.

23 Q. And is it safe to assume you've testified
24 previously?

25 A. Yes, I have.

1 Q. A considerable amount?

2 A. Hundreds of times.

3 Q. Let's -- if we could, let's move into the autopsy
4 that you performed that relates to this case. Did you
10:41:26 5 perform an autopsy on Russlan Klyuev on June 15, 2016?

6 A. Yes. On an individual identified to me as such.

7 Q. And can you -- can you walk us through kind of the
8 process of the autopsy and what sort of things you're
9 looking for?

10 A. Basically, the autopsy starts with an external
11 examination, and this means examining the body literally
12 from head to foot, looking for any findings on -- that might
10:41:58 13 be on the outside of the body. Once this is completed, an
14 internal examination is performed. The body is opened.
15 Major internal organs are removed and examined. Also
16 samples, including blood, are obtained during this part of
17 the autopsy. Eventually a cause of death is formulated.

10:42:28 18 Q. As you -- as you conducted your inspection of the
19 outside of the body, that includes the clothing they are
20 wearing, correct?

21 A. Yes, sir.

22 Q. And then the clothing is removed and you inspect
23 the outside of their body before opening them up?

24 A. That's correct. The body is undressed.

25 Q. Did you see any signs of foul play?

1 A. No. I saw nothing that I would consider to be foul
10:42:55 2 play, meaning there was no obvious trauma, blunt injuries,
3 gun shot wounds, stab wounds, things of that nature.

4 Q. And then, once you went through the autopsy and
5 looked at his major organs and inside of his body, did you
6 see any signs, any indications that this was something other
7 than an overdose death?

8 A. His internal organs appeared normal to me.

10:43:27 9 Q. As part of the autopsy process, did you take blood
10 samples from his body to have those analyzed?

11 A. Yes, I did.

12 Q. If we could look again at Exhibit 18.02. You, in
13 fact, know Bill Posey, correct?

14 A. I have talked to him on the telephone numerous
15 times. I do not know him personally, and today was the
10:43:58 16 first time I had ever set eyes on him.

17 Q. Okay. Did you -- did you receive his report, his
18 results, when a blood sample is sent to him?

19 A. Yes, I did.

20 Q. And if we could zoom in again on the parts that are
21 positive, starting with blood ethyl alcohol and going down
22 to Fentanyl.

23 Did you consider this as part of your overall
10:44:26 24 duties in forming an opinion on the cause of death?

25 A. Yes, I did.

1 Q. Did you come to an opinion as to the cause of his
2 death?

3 A. Yes.

4 Q. What was your opinion?

5 A. In my opinion, the cause of death was multiple drug
6 intoxication.

7 Q. And specifically, the drugs we're looking at on the
8 screen?

9 A. Yes.

10 Q. There was nothing that caused his death other than
11 drugs?

12 A. No.

13 MR. GADD: If I could have just one moment.

10:45:00 14 THE COURT: Sure.

15 MR. GADD: No further questions. Thank you.

16 THE COURT: Thank you.

17 Defense may cross examine.

18 MR. SKORDAS: No questions, Your Honor.

19 THE COURT: Thank you. You may step down, Doctor.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: You may be excused. And you may call
22 your next witness.

23 MR. GADD: Your Honor, we have reached the end of
24 our witnesses for today. We have moved much faster than
10:45:26 25 anticipated. Our next witness is flying in tonight.

1 THE COURT: Do you want to wait for lunch before
2 you go home?

3 All right. So nothing else we can really
4 accomplish today, I take it?

5 MR. GADD: No, sir. If we could pick it up in the
6 morning.

7 THE COURT: All right.

8 Well, don't communicate about the case or let
9 anyone communicate with you. Have a longer day than normal
10 outside of here, and we'll see you at 8:30 in the morning.

11 I might say that there is often this difficulty,
10:45:58 12 particularly when witnesses are coming in from out of town.
13 This is not that unusual, and they have to try to estimate
14 how long it's going to take, and, you know, we all estimate
10:46:09 15 imperfectly. So see you tomorrow morning. Have a nice day.

16 THE CLERK: All rise, please.

17 (Whereupon the jury leaves the courtroom.)

18 THE COURT: We'll see you bright and early tomorrow
19 morning. Let me talk to the lawyers a second off the
20 record.

21 (Discussion off the record.)

22

23

24

25 (Whereupon the proceedings were concluded for the day.)

REPORTER'S CERTIFICATE

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

I, REBECCA JANKE, do hereby certify that I am a
Certified Court Reporter for the State of Utah;

That as such Reporter I attended the hearing of
the foregoing matter on August 20, 2019, and thereat
reported in Stenotype all of the testimony and proceedings
had, and caused said notes to be transcribed into
typewriting, and the foregoing pages numbered 1141 through
1225 constitute a full, true and correct record of the
proceedings transcribed.

That I am not of kin to any of the parties and
have no interest in the outcome of the matter;

And hereby set my hand and seal this 20th day of
December, 2020.

REBECCA JANKE, CSR, RPR, RMR